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**TESTIMONY IN SUPPORT OF SENATE BILL NO. 2588**

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**SENATE LAW & PUBLIC SAFETY COMMITTEE**

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Thank you for the opportunity to speak in support of S2588, a bill that will limit the overuse of solitary confinement in New Jersey and thereby protect prisoners, corrections officers, and communities.

My name is Alexander Shalom and I am Senior Staff Attorney for the American Civil Liberties Union of New Jersey. The ACLU is a private, non-profit organization founded in 1920 to promote and defend the founding American principles of freedom, justice and equality. We have approximately 12,000 members in New Jersey and hundreds of thousands nationwide. The ACLU-NJ is the state's leading organization dedicated to advancing and defending civil rights and liberties.

Right now, in New Jersey, prisoners of any age can be and are subjected to long-periods of solitary confinement – including several years at a time – for even non-violent violations of institutional rules. Other prisoners are held in long-term isolation because of their perceived political or gang affiliations. Throughout New Jersey's prisons and jails people with mental illnesses and developmental disabilities languish for twenty-three hours a day in small cells, deprived of meaningful human interaction.

As a result, we are extremely pleased to support this historic effort to reduce the overuse of solitary confinement in New Jersey. By reducing the amount of time people spend in isolation—and by ensuring that our most vulnerable prisoners are not subjected to this treatment at all—we achieve three important objectives. First, the proposed legislation protects juveniles, people with mental illnesses, and other prisoners from suffering the horrible ill-effects we know to be associated with solitary confinement; second, providing alternatives to isolation will protect prisoners, correctional staff, and communities while saving New Jersey a significant amount of money; and third, limiting solitary confinement is critical to ensuring that when prisoners return to our cities and towns—which almost all do—they are able to successfully reintegrate into our communities.

Before considering why S2588 will be so effective, it is important to identify why it is so necessary. Authoritative studies conducted by some of the nation's leading psychiatric and

psychological researchers establish that individuals subjected to solitary confinement exhibit various negative physiological and psychological reactions, including: self-mutilation;<sup>1</sup> revenge fantasies, rage and irrational anger;<sup>2</sup> heart palpitations;<sup>3</sup> perceptual distortions and hallucinations;<sup>4</sup> and nightmares.<sup>5</sup>

### **Placing Young People in Solitary Confinement is Particularly Harmful**

These intense physical and psychological harms are even more severe for young people thus it's no surprise that institutions like the United Nations Special Rapporteur on Torture<sup>6</sup> and the American Academy of Child and Adolescent Psychiatry<sup>7</sup> have called for bans on solitary confinement of youth.

Recent analysis by Human Rights Watch and the American Civil Liberties Union indicates that young people subjected to isolation in adult and juvenile facilities specifically struggle with suicidal behavior, anxiety and sleep disorder, symptoms of PTSD, hallucinations, and uncontrollable rage.<sup>8</sup> In addition, they frequently are “denied access to education, books, exercise, proper nutrition, and mental health services,”<sup>9</sup> leading to a spiral of increased rule-breaking and punishment. Several teens reported that they thought about or attempted suicide while in isolation.<sup>10</sup> One such teen explained, “I just felt I wanted to die, like there was no way out—I was stressed out.”<sup>11</sup> New Jersey must not continue turning a blind eye as we subject young people to this damaging practice.

These studies also have led policymakers to question the continued, widespread use of solitary confinement as a disciplinary sanction. In a recent letter, Robert Listenbee, Administrator of the federal Office of Juvenile Justice and Delinquency Prevention, wrote, “[I]solation of children is dangerous and inconsistent with best practices and . . . excessive isolation can constitute cruel

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<sup>1</sup> Stuart Grassian, Psychopathological Effects of Solitary Confinement, 140 AM. J. PSYCHIATRY 1450, 1453 (1983);

<sup>2</sup> *Id.* See also Holly A. Miller & Glen R. Young, Prison Segregation: Administrative Detention Remedy or Mental Health Problem?, 7 CRIM. BEHAV. AND MENTAL HEALTH 85, 91 (1997); Craig Haney, Mental Health issues in Long-Term Solitary and “Supermax” Confinement, 49 CRIME & DELINQ. 124, 130, 134 (2003).

<sup>3</sup> Haney, *supra* note 2, at 131.

<sup>4</sup> See generally Richard Korn, The Effects of Confinement in the High Security Unit at Lexington, 15 SOC. JUST. 8 (1988).

<sup>5</sup> Haney, *supra* note 2, at 133. Other negative reactions include hypersensitivity to external stimuli, increased anxiety and nervousness, fear of persecution; lack of impulse control; severe and chronic depression; appetite and weight loss; withdrawal; blunting of affect and apathy; talking to oneself; headaches; problems sleeping; confusing thought processes; and dizziness.

<sup>6</sup> United Nations Special Rapporteur on Torture Warns About Abuse of Solitary Confinement in the Americas, (March 13, 2013),

[http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/5B5F637424BFED7AC1257B2D0060155F?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/5B5F637424BFED7AC1257B2D0060155F?OpenDocument)

<sup>7</sup> [http://www.aacap.org/aacap/Policy\\_Statements/2012/Solitary\\_Confinement\\_of\\_Juvenile\\_Offenders.aspx](http://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx)

<sup>8</sup> Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States, HUMAN RIGHTS WATCH AND AMERICAN CIVIL LIBERTIES UNION, 24 (2012);

<sup>9</sup> *Id.* at 36, 37, 43.

<sup>10</sup> *Id.* at 33.

<sup>11</sup> *Id.*

and unusual punishment.”<sup>12</sup> Similarly, the Attorney General’s Task Force on Children Exposed to Violence concluded that “nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement.”<sup>13</sup> S-2588 adheres to best practices by banning the use of solitary confinement for young people.

### **Placing People with Mental Illnesses in Solitary Confinement Constitutes Cruel and Unusual Punishment**

Like young people, people with mental illness are particularly susceptible to the harm of solitary confinement. As a result, groups like the American Psychiatric Association<sup>14</sup> and the National Alliance on Mental Illness<sup>15</sup> have raised concerns about solitary confinement. The impact of placing mentally ill prisoners in solitary confinement was vividly described by a federal district court as “the mental equivalent of putting an asthmatic in a place with little air to breathe.”<sup>16</sup> And the harm is not eliminated by simply providing larger cells or other better living conditions. As another court explained, “[e]ven if a person is confined to an air conditioned suite at the Waldorf Astoria, denial of meaningful human contact for such an extended period may very well cause severe psychological injury.”<sup>17</sup> Indeed, several courts have found that the imposition of solitary confinement to severely mentally ill prisoners violates constitutional prohibitions against cruel and unusual punishment.<sup>18</sup> This is so because prisoners with preexisting mental illnesses are at an even greater risk of having symptoms deepen into something more permanent and disabling.<sup>19</sup> S-2588 protects people with mentally ill by keeping them out of solitary confinement.

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<sup>12</sup> July 5, 2013 Letter of Robert Listenbee, Administrator, Office of Juvenile Justice and Delinquency Prevention, to Jesselyn McCurdy, Senior Legislative Counsel, American Civil Liberties Union 1, quoted in AMERICAN CIVIL LIBERTIES UNION, ALONE AND AFRAID: CHILDREN HELD IN SOLITARY CONFINEMENT AND ISOLATION IN JUVENILE DETENTION AND CORRECTIONAL FACILITIES 2 (2013).

<sup>13</sup> ATTORNEY GENERAL’S TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, REPORT OF THE ATTORNEY GENERAL’S TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, DEFENDING CHILDHOOD: PROTECT, HEAL, THRIVE, (2012), <http://www.justice.gov/defendingchildhood/cev-rept-full.pdf>.

<sup>14</sup> <http://www.psych.org/File%20Library/Advocacy%20and%20Newsroom/APA%20on%20the%20Issues/Regulatory/06-19-12-APA-Statement-on-Solitary-Confinement.pdf>

<sup>15</sup> <http://www2.nami.org/Template.cfm?Section=Cleansweep&template=/ContentManagement/ContentDisplay.cfm&ContentID=137139>

<sup>16</sup> *Madrid v. Gomez*, 889 F. Supp. 1146, 1265-66 (N.D. Cal 1995)

<sup>17</sup> *Morris v. Trivisono*, 499 F. Supp. 149, 160 (D.R.I. 1980).

<sup>18</sup> See, e.g., *Ruiz v. Johnson*, 37 F. Supp. 2d 855, 915 (S.D. Tex. 1999), *rev’d on other grounds*, 243 F.3d 941 (5<sup>th</sup> Cir. 2001), *adhered to on remand*, 154 F. Supp. 2d 975 (S.D. Tex. 2001) (“Conditions in . . . administrative segregation units clearly violate constitutional standards when imposed on the subgroup of the plaintiff’s class made up of mentally-ill prisoners.”)

<sup>19</sup> Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124, 142 (2003); Jeffrey L. Metzner et al., *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. OF AM. ACAD. OF PSYCHIATRY & THE LAW 104, 105 (2010), (solitary confinement may exacerbate pre-existing symptoms of mental illness or provoke recurrence); see also Diana Aria et al., *Defining the Scope of Sensory Deprivation for Long Duration Space Missions*, NASA, 8 (2011), available at [http://science.gov/scigov/link.html?type=RESULT&redirectUrl=http://ntrs.nasa.gov/archive/nasa/casi.ntrs.nasa.gov/20110014527\\_2011015154.pdf](http://science.gov/scigov/link.html?type=RESULT&redirectUrl=http://ntrs.nasa.gov/archive/nasa/casi.ntrs.nasa.gov/20110014527_2011015154.pdf) (stress from sensory deprivation places a person at significant risk for future psychiatric deterioration, which includes the potential development of irreversible psychiatric conditions).

**The Practice of “Double Celling” is as Harmful as,  
or More Harmful Than, Locking a Prisoner Alone in a Cell**

Some might suggest that New Jersey’s tendency to double-cell prisoners obviates the need to address the costs and consequences of solitary confinement. Such a position is unsupported by the studies – both anecdotal and experimental – that have been made of individuals confined together in small groups.<sup>20</sup> The most consistent findings in those studies was dramatically increased levels of hostility, interpersonal conflict, and paranoia.<sup>21</sup> As a leading expert on the effects of solitary confinement has explained: “Individuals exposed to such conditions also tend to become irrationally territorial, staking out ‘areas of exclusive or special use, [and] acting with hostility to trespasses by others.’”<sup>22</sup> Indeed, “[c]onfined groups comprising just two individuals may be the most pathogenic of all, associated with especially high rates of mutual paranoia and violent hostility.”<sup>23</sup>

It is, therefore, no surprise that the American Psychiatric Association’s position on the segregation of mentally ill prisoners defines segregation as “one to two inmates in a cell.”<sup>24</sup> The Department of Justice takes the same approach, defining “the terms ‘isolation’ or ‘solitary confinement’ [to] mean the state of being confined to one’s cell . . . *alone or with other prisoners*. . . .”<sup>25</sup> S-2588’s definition of isolated confinement appropriately addresses people confined alone or with other prisoners.

**Alternatives that Decrease Harm to Prisoners,  
Increase Safety of Corrections Officers and Save Money**

Fortunately, there are ways to successfully run correctional institutions without over-reliance on isolation. Across the country, states are taking the lead in reducing the use of solitary confinement and the results have been terrific.

Maine has been at the forefront of efforts to reduce the use of solitary confinement. Starting in 2011, Maine started sending fewer inmates to its segregation unit, a restrictive area where prisoners spend 23 hours of their day in a cell by themselves and have no interaction with fellow inmates.<sup>26</sup> The unit’s 139 cells had been full, but by 2012 had between 35 and 45 inmates at any one time.<sup>27</sup> The outcomes have been staggering. According to former Corrections Commissioner Joseph Ponte, there have been “substantial reductions in violence, reductions in use of force, reductions in use of chemicals, reductions in use of restraint chairs, reductions in inmates cutting

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<sup>20</sup> See Grassian, S. *Psychiatric Effects of Solitary Confinement*, (2006) WASH. U. J.L. OF LAW & POLICY, Vol. 22, 357-358, citing, e.g., Seward Smith, *Studies of Small Groups in Confinement*, in SENSORY DEPRIVATION: FIFTEEN YEARS OF RESEARCH 374–76 (John Peter Zubek ed., 1969).

<sup>21</sup> *Id.* citing Smith, *supra* note 45, at 377.

<sup>22</sup> *Id.* citing Smith, *supra* note 45, at 380.

<sup>23</sup> *Id.*

<sup>24</sup> <http://www.psychiatry.org/File%20Library/Learn/Archives/Position-2012-Prisoners-Segregation.pdf>

<sup>25</sup> United States Department of Justice, Letter to the Honorable Tom Corbett, Re: *Investigation of the State Correctional Institution at Cresson and Notice of Expanded Investigation*, May 31, 2013, at p. 5 (emphasis added).

<sup>26</sup> Barber, A. (2012) “Less restriction equals less violence at Maine State Prison,” *Bangor Daily News*.

<sup>27</sup> *Id.*

[themselves] up — which was an event that happened every week or at least every other week, [The cutting has] almost been totally eliminated as a result of these changes.”<sup>28</sup>

Reforms in Mississippi have created even more dramatic results. Mississippi’s notorious Parchman Prison housed the state’s super-maximum security unit where all prisoners were kept in 23-hour-per-day solitary confinement. After an outburst of violence in 2007, the prison took a surprising approach: “Instead of tightening restrictions further, prison officials loosened them. They allowed most inmates out of their cells for hours each day. They built a basketball court and a group dining area. They put rehabilitation programs in place and let prisoners work their way to greater privileges.”<sup>29</sup> The results were even more surprising than the approach: “Violence went down. The number of prisoners in isolation dropped to about 300 from more than 1,000. So many inmates were moved into the general population of other prisons that [the solitary confinement unit] was closed in 2010, saving the state more than \$5 million.”

These states are not alone. New York, Colorado, Washington and Pennsylvania are all prioritizing and piloting reforms to their use of solitary confinement, particularly with vulnerable populations.<sup>30</sup> New Jersey should place its self at the forefront of smart reforms that are more humane, make us safer, and save money.

### **Reducing the Overuse of Solitary Confinement Promotes the State’s Interest in Helping Ex-Offenders Can Successfully Reenter Our Communities**

It is indisputable that an overwhelming majority of people in prison will, someday, return to our communities.<sup>31</sup> The question we must ask is, “in what mental condition will we find those who return to our neighborhoods?” The gravity of this question was best demonstrated by horrific events in Colorado in 2013. The head of Colorado’s prisons – who had worked to reduce the use of solitary confinement in that state – was murdered by a man who had recently been released after a long period of solitary confinement.<sup>32</sup> The killer’s mental health had been seriously adversely impacted by his lengthy stay in solitary.<sup>33</sup>

A recent study by the American Friends Service Committee confirms the intuitive belief that “[l]engthy or repeated exposure to long-term solitary confinement reduces former prisoners’ prospects for successful reentry and contributes to” recidivism.<sup>34</sup> The same conclusion can be drawn from a study of over 8,000 former Washington State prisoners, which found that people who were released directly from isolation had a much higher rate of recidivism (64 percent) than

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<sup>28</sup> *Id.*

<sup>29</sup> Goode, E. (2012) “Prisons Rethink Isolation, Saving Money, Lives and Sanity,” *New York Times*.

<sup>30</sup> Kupers, et al. (2009) “Beyond Supermax Administrative Segregation,” *Criminal Justice and Behavior*; Epps, C. (2012) “Reassessing Solitary Confinement - The Human Rights, Fiscal, and Public Safety Consequences,” Senate Testimony from Public Hearing on June 19, 2012; *See also* <http://www.nrcat.org/torture-in-us-prisons/learn-more/alternatives-to-solitary-confinement> for full list of state initiatives to develop alternatives to isolation.

<sup>31</sup> [http://njdoc.gov/pdf/offender\\_statistics/2014/By%20Total%20Term%202014.pdf](http://njdoc.gov/pdf/offender_statistics/2014/By%20Total%20Term%202014.pdf) (64 percent of prisoners are serving sentences of less than ten years; only .003 percent of prisoners are serving sentences of life without parole).

<sup>32</sup> Goode, E. and Frosch, D. (2013) “Mysteries Multiply in Prison Chief’s Killing” *New York Times*.

<sup>33</sup> *Id.*

<sup>34</sup> Lowen, M. & Isaacs, C. (2012) “Lifetime Lockdown: How Isolation Conditions Impact Prisoner Reentry,” The American Friends Service Committee.

individuals who spent some time in the general prison population before returning to the community (41 percent).<sup>35</sup>

### **Conclusion**

New Jersey stands poised to join a growing national movement to end the overuse of solitary confinement. The gains the states stands to realize include increased public safety, cost savings, and healthier communities. We urge the Committee to release S2588 and move the Garden State closer to becoming a fairer, safer, more humane state.

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<sup>35</sup> Recidivism of Supermax Prisoners in Washington State (October 2007), Lovell et al., *Crime & Delinquency*, vol. 53, no. 4, pp. 633-656.